

**Stultz, Mark**

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**From:** Sally Mann [salmann@rstarmail.com]  
**Sent:** Thursday, December 02, 2010 10:59 AM  
**To:** Sally Mann  
**Cc:** Stultz, Mark  
**Subject:** Re: State submits revised bay cleanup plan | LoudounTimes.com

I have corrected some typos in the email below, to suggest that the buffers should only be placed on AR 1 and **AR 2** (agricultural zoned) land to conform with the final state WIP calling for 35 foot buffers on USGS mapped streams and a cost share program only on agriculture. Please disregard the previous email, in lieu of this one.  
Thank you. Sally Mann

On Dec 2, 2010, at 10:47 AM, Sally Mann wrote:

Dear Mr. Stultz,

As you know I have been appointed the proxy for Cindy Trautz, Lowes Island Condominium Association.

Please submit this email and attachments to the other stakeholders. The Loudoun Times Mirror article shows that the State is expediting the process, since the WIP was not due until May of next year--but came out in November. Now Loudoun will have the final TMDL plan in **JUST A FEW WEEKS!** For Loudoun, the final WIP proposes voluntary 35 foot grass or forested buffers, for agriculture only, and only on the USGS blue line map of perennial streams. The State is going to develop a cost share program for planting 35 foot buffers and fencing--they will not be assisting with wider buffers or buffers on any land other than the USGS map. The State is proposing engineered and other regulatory solutions (regulation of urban fertilizers) for other uses, such as commercial development, single family homes, etc. It appears that the TMDL program (**coming out in at the end of December**) will **functionally subsume** the Ches Bay regulations from a standpoint of governing non-point pollution.

Why not wait just a few more weeks? our work will make more sense after the final TMDL plan comes out December 31.

My understanding was that the stakeholders would not be speaking with the press. Does this apply to Laura Edmonds, who appears in this article to be lobbying for CBPO and to finish the stakeholder work **BEFORE** the final TMDL plan comes out in just a few weeks? That does not seem fair to either the stakeholders or the public.

[http://www.loudountimes.com/index.php/news/article/state\\_submits\\_revised\\_bay\\_cleanup\\_plan/](http://www.loudountimes.com/index.php/news/article/state_submits_revised_bay_cleanup_plan/)

Also enclosed is a link to the Albemarle County Water Protection Ordinance, which Mr. Gorski spoke about last week. That ordinance apparently uses the USGS blue line for the mapped perennial streams, and also has 25 foot buffers. (Ms. Edmonds stated that for Loudoun if we used this permitted standard under the state act,

that Loudoun would only show 500 stream miles of perennial streams.) I would like to see the USGS map of perennial streams for Loudoun. Is this possible?

The Albemarle ordinance has as an outright exemption (no agreement in lieu of plan) for land disturbances 40,000 square feet or less. (I think there are issues with the agreement in lieu of plan because it still requires the plan reviewing authority to require unspecified conservation measures.) The Albemarle Ordinance only requires mitigation relative to the disturbance created, not "planting the entire buffer" as our ordinance proposes. I believe this Ordinance was adopted citing the Chesapeake Bay Act as authority, but the Ordinance is not a "Chesapeake Bay Preservation Ordinance."

[http://www.albemarle.org/upload/images/forms\\_center/departments/county\\_attorney/forms/Albemarle\\_County\\_Code\\_Ch17\\_Water\\_Protection.pdf](http://www.albemarle.org/upload/images/forms_center/departments/county_attorney/forms/Albemarle_County_Code_Ch17_Water_Protection.pdf)

**My recommendation:** If we are to press on in this process, I would recommend that we only consider **35 foot buffers and the USGS blue line for perennial streams on land zoned AR 1 and AR 2**, since that is the direction the state is going in, and **that will be the only way our farmers, and others will be able to cost share in the State and local programs.** Any part of the County on public sewer or water should be exempt, because the State is looking only at engineered solutions, and existing subdivisions east of Rte 15 should be exempt since the focus of the State is on regulating storm water facility runoff and urban yard use, with fertilizer regulation and yard waste regulation.

We are not required to have delineation studies under the Ches Bay framework, and we can exempt all of the land east of 15 if we wish to do so. This would be simple, quick, and certain. Given the final WIP focus on engineered and other solutions, ie urban fertilizer regulation and given the State is only proposing 35 foot buffers for agriculture for the USGS designated perennial streams, I believe it would be unwise at this point, from a governance point, to do anything greater than what I have proposed.

Sally Mann